



# **Citizens' Animal Services Task Force City of Fort Smith**

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## **Report to the Board of Directors**

**December 13, 2011**



# City of Fort Smith Animal Care and Control

## Summary of Recommendations

### **1. Overhaul the format of the animal ordinances**

Present in a framework that makes logical sense to the community and represents an understanding that pet ownership is more than a mere right.

### **2. Pet licensing is not feasible**

A licensing program is deemed administratively costly and burdensome offering low initial compliance and waning compliance over time.

### **3. Encourage responsible ownership through animal identification**

All pets must be identified by tag or by surgical microchip to assure their safe return to their rightful homes. Microchipping is deemed as the preferred method of identification.

### **4. Pet spay and neuter must be encouraged rather than mandated**

A continual and sustained awareness and education campaign must precede a mandatory strategy. With too many unintended consequences, including higher shelter surrenders, and consequently, higher euthanasia rates, the effort is deemed counter to the stated objectives of the board.

### **5. Cats permitted to roam must be spay and neutered**

Low shelter adoption rates, and rising stray/feral cat populations (and the health risks associated with them) prompts the need to mandate the spaying and neutering of cats. Owners unwilling or unable to alter their cats have the option of keeping their pets indoors.

### **6. Regular feeding of stray animals constitutes their adoption**

Taking the responsibility to regularly feed a stray dog or cat also requires the responsibilities and liabilities associated with pet ownership, including the animal's spay/neuter. One possible remedy is to make it unlawful to feed stray animals on a regular basis.

## **Summary of Recommendations (continued)**

### **7. Restructure the contractual support of the SCHS**

Require and encourage Sebastian County Humane Society personnel dedicated to fund development, education and programming as a priority need.

### **8. Require greater transparency of SCHS reporting**

Require monthly reporting of the specific reasons why euthanized dogs and cats were designated as non-adoptable. Require periodic scheduling of rabies inoculations and microchipping events and spay/neuter education -- complete with vouchers.

### **9. Strengthen the Animal Services Advisory Board**

Permit the Board to serve as a liaison between the City, not-for-profit organizations, for-profit businesses and veterinarians and the community.

### **10. Create a voluntary city data base serving pets and owners**

Establish a means to more quickly unite lost pets with their homes.

### **11. Maintain or increase the number of animal control wardens**

The task force recognizes the high degree of professionalism and dedication exhibited in the work that they do. Continue existing effort underway to allow animal control wardens to issue summons and/or citations. Commit to maintaining current staffing levels in animal control.

### **12. Require owners to secure their dogs on owner's property**

All dogs must be safe and secure on owner's property by one of three methods: secure fencing, a trolley system or tethering.

### **13. Require pet owners to remove animal waste left on others' property.**

Owners of cats and dogs must remove excrement from the owned animal on any property which they do not own or possess.



# **City of Fort Smith**

## **Animal Care and Control**

### **Outline of Recommendations**

#### **Minimum Standards of Care**

- Animal Services Advisory Board**
- Shelter**
- Nutrition**
- Welfare**
- Rabies vaccinations**
- Stray Animals and Feral Cats**
- Animals as Prizes**

#### **Minimum Standards of Control**

- Humane Education**
- Identification**
- Dog and Cat Control**
  - Control of Dogs on Owner's Property**
    - Methods of Confinement**
      - Fencing
      - Trolley Systems
      - Tethering
    - Control of dogs off Owner's Property**
      - Leashing
      - Animals riding in cars and pickup trucks
- Animal Nuisances**
- Animal Waste**
- Females in Heat**
- Kennels/Maximum number of animals**



# City of Fort Smith

## Animal Care and Control

### Proposed Revision Overview

## Minimum Standards of Care

### **Animal Services Advisory Board**

The Animal Services Task Force recommends that the Animal Services Advisory Board (ASAB), created by city ordinance 21-11 on March 15, 2011, (Chapter 4, Division 2 Fort Smith Code of Ordinances) be appointed immediately following the termination of the temporary Animal Services Task Force. It is recommended that ASAB serve to monitor progress stated goals and provide quarterly detailed reports to the Board of Directors about progress towards reducing at-large roaming, ordinance violations, animal euthanasia as well as programming and non-profit fundraising towards awareness and low-cost spay and neuter.

The task force strongly suggests revising the composition of the ASAB, increasing its participation from 7 to 9 members and designating representation from specific community segments. Specifically:

- Two (2) members shall be licensed veterinarians;
- One (1) member shall be an owner, operator or employee of a business related to the production, sale, distribution or care of animals or livestock;
- Two (2) members shall be Board members of separate nonprofit animal interest groups whose membership is comprised primarily of residents of the City, and whose primary interest is the health and welfare of animals;
- Four (4) members shall be residents of the City of Fort Smith, but need not have any affiliation or connection with a specific business or entity.

Should there be no legislation to provide a city-provided funding source for low-cost spay/neuter programs, the task force recommends removing language establishing the facilitation of request for financial assistance for low cost spaying and neutering.

Issues considered important for their review include:

- *ongoing pet education regarding responsible ownership*
- *continual communication advising lawful pet ownership*
- *north side pet exercise park*
- *ongoing spay/neuter and microchipping encouragement*
- *sustainable feral cat trap, neuter and release (TNR) program*
- *creation of a city database of all rabies inoculations and id's*
- *benchmarking to determine progress towards stated goals*

### **Shelter**

Cats and dogs housed outdoors shall have structurally sound and moisture-proof shelter in a size appropriate for the animal. Outside animals must have adequate shelter from inclement weather. It shall be unlawful to keep or harbor dogs in an unclean environment. Animal waste may not accumulate to the point that it creates a health hazard for the pet. Failure to comply will be considered neglect.

### **Nutrition**

It shall be unlawful for any person keeping or harboring any cat or dog to refuse or neglect to provide such animal with adequate clean, fresh potable water or to refuse or neglect to provide wholesome foods suitable for the animal's condition and age. Failure to comply will be considered neglect.

### **Welfare**

Should a dog be confined within an enclosure, the space provided must be sufficient to keep the animal in good mental and physical condition. Less than adequate space will mandate periodic exercise by leash or utilization of dog park facilities. Failure to comply will be considered neglect.

### **Rabies vaccinations**

Every person who is the owner of any dog or cat shall have such animal vaccinated against rabies with a vaccine approved by the USDA and administered by a licensed veterinarian. Failure to comply will be considered neglect.

Every person visiting the city for a period of 30 days or less shall be deemed in compliance providing a current and valid certificate of rabies vaccination is furnished; otherwise, the animal must receive an inoculation by a city or county veterinarian.

Every animal within the city limits for more than 30 days is considered relocated to the city and its owners therefore must comply with all animal care and control ordinances of the city of Fort Smith.

## **Stray Animals and Feral Cats**

### ***Stray dogs and cats***

For the safety of the public and in consideration of the welfare of animals, it shall be discouraged to harbor, regularly feed and/or keep animals found to be roaming at large. Stray animals should either be taken to the Sebastian County Humane Society or Animal Control must be notified of a loose dog. Animal Control will not attempt to collect stray cats. Trapping options are available through the Sebastian County Humane Society and trapped cats should be taken there directly once caught.

Those caring for strays must accept full responsibility for their care. A quick adoption policy/fee structure is recommended to expedite Humane Society adoption but requires the relinquishment of an adopted stray should a rightful owner come forward within 15 days.

### ***Feral cats***

Currently, cats determined feral are euthanized within the first 24 hours of being brought to the shelter. The task force strongly recommends the city contract provide for a minimum of 72 hours of all cats considered feral at the time of impoundment to permit a true assessment of their temperament.

At that time, such shelter will proceed with adoption procedures for cats deemed adoptable. For cats designated as feral, the cat will be euthanized. The task force recommends aggressive recruitment of nonprofit based rescue efforts and adoption groups that will adopt or neuter/trap/release these animals before their termination.

### **Animals as Prizes**

It shall be unlawful for any person or organization, whether for profit, nonprofit, charity or any other purpose to offer a dog or cat as a prize in response to participation in a game, contest, drawing of chance, auction or raffle.

## **Minimum Standards of Control**

### **Humane Education**

The city shall make available by means of information card, brochure or pamphlet the fundamental minimum care and control requirements.

### **Identification**

All cats and dogs shall be identified. The preferred and recommended method is microchipping as it offers permanent identification when completed and updated. Acceptable secondary methods include any form of verifiable identification including current rabies vaccination tag or customized tag offering owner contact information. Any at-large animal will be required from that point forward to have permanent means identification.

### **Dog and Cat Control**

#### **Dogs**

It shall be unlawful for any dog to be off the owner's exclusive property unless the dog is under leash restraint or control.

#### **Cats**

Unsterilized cats must be confined to the owner's property. It shall be unlawful for any unsterilized cat to be off the owner's exclusive property unless the cat is restrained or humanely confined.



## ***Control of Dogs on Owner's Property***

Unless leashed or caged/crated, an owner must keep any dog a minimum of five feet away from public property, public access, easements, or common grounds.

### **Manner of Keeping and Confinement**

Owning a dog means having the responsibility to control its behavior and to reasonably secure the dog (s) on the dog owner's property. Dogs that are appropriately secured on the owner's property are safer than pets that run at large in that they are less likely to:

- Run away
- Procreate without ones knowledge
- End up injured by cars, animals or people they might encounter
- To harm other people and other animals when running at large

This ordinance seeks to correct these concerns by requiring owners to provide a safe, secure and appropriate environment for their dogs in an attempt to control dogs from running at large. It is important for individuals to take responsibility for the dogs in their control. A dog owner has three (3) options of making sure that their dog (s) are safe and secure on the owner's property; secure fencing, a trolley system or tethering.

Providing secure and appropriate fencing for their dogs as a primary means of confinement in an attempt to control dog (s) from running at large must meet the definition of a secure enclosure as stated below:

- (a) "Animal Control Officer" means a municipal or county animal control office with authority over the area where the dog is kept.
- (b) "Dog" means a domesticated animal that is a member of the canine family.
- (c) "Secure" is defined as to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog. Confinement must be humane for the animal as well as secure and safe.
- (d) "Owner" means a person who owns or has custody or control of a dog

Secure enclosure means a fenced area of structure that is:

- (1) Locked or has a self-locking gate(s) that are engaged at all times;
- (2) Enclosure that is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design that is capable of preventing a dog from climbing, digging, jumping or otherwise escaping on its own volition;
- (3) Gates and the height of the fence and the size of openings in the fence are appropriate for the type of dog one has;
- (4) Maintenance is required of any avenue in which a dog can get through, over or under the fence and escape;
- (5) Capable of preventing the entry of the general public, including children

If animal control picks up a dog running at large and the dog is found to be microchipped:

- The dog will be taken to owner if, and when, possible
- Animal control will check fencing
- If owner is found to have unsecure fencing then owner will be given 30 days to fix the fence to make it secure
- Failure to repair within 30 days may result in subsequent fines

If animal control picks up a dog running at large and no microchip is found:

- The dog is taken to the humane society until the owner picks up the dog
- Once ownership is established, animal control will go out to the home and check on the fence
- If owner is found to have unsecure fencing then owner will be given 30 days to fix the fence to make it secure
- Failure to repair within 30 days may result in subsequent fines

### **Trolley System:**

- (a) "Collar" means any collar constructed of nylon, leather, or similar material specifically designed to be used for a dog.
- (b) "Harness" harnesses have a loop that surrounds the neck and the torso of a dog with connecting straps between them for reinforcement.
- (c) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch
- (d) "Properly Fitted" means, with respect to a harness, to measure around the dog's chest and neck with an allowance for 2 fingers to fit between the dog and the harness. The collar should not be so tight that it will cause discomfort or so loose that it slides over the dogs head
- (e) "Owner" means a person who owns or has custody or control of a dog

An acceptable trolley system is subject to the following requirements as a means of permanent containment for a dog when:

- (1) The trolley system must be at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it must terminate at both ends with a swivel; it must not weigh more than one-eighth ( $\frac{1}{8}$ ) of the dog's weight; it must be free of tangles; and, it must be attached at two (2) permanent points elevated four (4) to seven (7) feet off the ground in a manner that allows the tether to move freely along the length of the cable and
- (2) The dog must be secured to a trolley system in such a manner as to prevent injury, strangulation, or entanglement and
- (3) The dog must be connected to the trolley system by either a properly fitted collar of a size appropriate for the dog or harness of a size appropriate for the dog. The collar or harness must fit in such a manner as to prevent injury, harm, and strangulation to the dog or allow the contained dog to get free;
- (4) The dog shall not be secured to a trolley system during a period of extreme weather, including but not limited to, extreme heat or near-freezing temperatures, thunderstorms, or tornadoes; and
- (5) No more than one (1) dog at a time may be attached to a trolley system and
- (6) The dog is to be monitored periodically

## **Tethering a dog**

- (a) "Collar" means any collar constructed of nylon, leather, or similar material specifically designed to be used for a dog.
- (b) "Harness" harnesses have a loop that surrounds the neck and the torso of a dog with connecting straps between them for reinforcement.
- (c) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch
- (d) "Properly Fitted" means, with respect to a harness, to measure around the dog's chest and neck with an allowance for 2 fingers to fit between the dog and the harness. The collar should not be so tight that it will cause discomfort or so loose that it slides over the dogs head
- (e) "Owner" means a person who owns or has custody or control of a dog

An acceptable means of tethering a dog is subject to the following requirements as a means of containment for a dog when:

- (1) When tethered, fastened, chained, tied, or restrained to stationary object, the tether must allow the free and untangled movement of the dog.
- (2) The tether must be connected to the dog by a properly fitted collar of a size appropriate for the dog or harness of a size appropriate for the dog. The collar or body harness must fit in such a manner as to prevent injury, harm, and strangulation to the dog or allow the contained dog to get free and
- (3) The minimum length of a tether is 10 feet.
- (4) Except as indicated hereafter, no person shall tether any dog outside to a trolley system unless the animal has been spayed/neutered. However, it is permissible to tether an intact dog when under the direct visual observation of the owner/agent at all times the dog is tethered; it is also permissible to tether an intact dog if it is inside a completely fenced area that will prevent other dogs from coming into contact with the tethered intact dog; and
- (5) The dog is to be monitored periodically.

## ***Control of dogs off Owner's Property***

### **Leashing**

Dogs may be exercised or transported by means of a chain, leash or other device at a length that permits the dog to remain under direct control. Dogs prone to aggressive tendencies should be restrained by a substantial chain or leash not exceeding six (6) feet in length and under the control of a competent person.

### **Animals riding in cars and pickup trucks**

When transporting an animal in an open vehicle or truck bed the animal must be secured in a crate suitable to safely contain the animal to minimize harm in the event of an accident at prevent its escape when stopped or moving. The crate must be securely fastened within the vehicle to prevent its movement. If a person is found in violation, we asked that the person be fined in accordance with other not in control provisions.

### **Animal Nuisances**

Habitual barking, whining, howling or other objectionable oral noises which result in a serious annoyance to a reasonable person are unacceptable. Affidavit complaints by two non-related neighbors or businesses in separate dwellings shall be reported to the City Prosecutor. Anyone bothered by repeated nuisance behavior is encouraged to file a complaint.

Any animal that repeatedly destroys property, chases persons, cars or other vehicles, runs at large in view of its owner or keeper or exhibits repeated behaviors that interferes with the reasonable use and enjoyment of property will be considered a public nuisance.

### **Animal Waste**

It shall be unlawful for any person who owns, keeps, maintains, harbors or walks a dog or cat, to cause or permit such dog or cat to be on any property, public or private, not owned or possessed by such person unless such dog or cat is accompanied by a person who has in his possession a device for the removal of excrement and a depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person.

It shall be unlawful for any person who owns, keeps, maintains, harbors or walks a dog or cat to immediately fail to remove excrement left by such dog or cat on property, public or private, not owned or possessed by such person. The excrement shall be removed to a proper receptacle.

No person shall allow cat or dog excreta to accumulate in any yard, pen or premises in or upon which a cat or dog shall be confined or kept to the extent that the stench becomes offensive to those residing in the vicinity, or results in a health hazard or nuisance.

### **Females in Heat**

The owner or keeper of a female dog or cat in estrus (in heat) shall be humanely and securely confined. Outdoor activity should be limited until the animals heat cycle has been completed.

### **Number of Permitted Animals on non-Kennel property**

Multiple pet homes are strongly encouraged to spay and neuter all animals. Any home with six or more in-tact and/or altered animals over the age of six months, whether cats or dogs or combination of cats and dogs, shall be considered to be operating a kennel. Kennels may only be operated in compliance with the city's zoning code and ordinances governing the operation of a kennel.

## **Recommended Penalties**

In the event of a violation of the control ordinances that result in a dog running at large in the community, the following structure of penalties are recommended:

### **First Offense**

- Owner pays \$10.00 fee and \$15.00/day to the Sebastian County Humane Society.
- Owner and dog are photographed.
- Owner is issued a citation for violation of leash law ordinance, identification ordinance, and/or rabies control act.
- Owner receives pamphlet as to animal ordinances.
- City of Fort Smith "holds" citation for 15 days.
- City Prosecutor will nolle prosequere charges if proof of identification and/or rabies vaccination by a licensed veterinarian is provided.

- A working system must be established to assure communication between the police department and the prosecutor's office

### **Second Offense**

- Owner's dog is held until animal control officer conducts a premises inspection.
- Upon assurance of future control, the dog is released and the owner pays the Sebastian County Humane Society a \$10.00 fee and \$15.00/day.
- Owner is issued a citation for violation of leash law (second offense).
- Owner receives pamphlet as to animal ordinances.
- A court date is set. If owner is found guilty, the owner is encouraged to spay or neuter an intact dog and a fine will be assessed. If proof of spay or neuter is provided part of the fine will be suspended.
- Likewise, if the owner is found guilty of violation of the identification ordinance (second offense), a fine will be assessed, part of the fine will be suspended if there is proof of microchipping.

### **Third Offense**

- Owner's dog is held again until a second inspection is made of the premises.
- Upon assurance of future control, the dog is released and the owner pays the Sebastian County Humane Society a \$10.00 fee and \$15.00/day.
- The owner is issued a citation for violation of the leash law (third offense).
- A court date is set. If the owner is found guilty, an increased fine will be assessed. The court will mandate spay or neutering, micro-chipping, and rabies vaccination if needed.

### **Fourth Offense**

- Owner's dog is held until a third inspection of the premises is conducted.
- Upon assurance of future control, the dog is released and the owner pays the Sebastian County Humane Society a \$10.00 fee and 15.00/day.
- A citation is issued for violation of the leash law (fourth offense). A court date is set. If the owner is found guilty of violation of the leash law (fourth offense), a significantly increased fine will be assessed and the City Prosecutor will ask the judge to consider mandating the surrender of the dog.



# City of Fort Smith Animal Care and Control

## Modifications to Existing Ordinances

### **Sec. 4-1 Definitions**

Revise definitions to reflect recommendations

### **Ordinance 21-11 Animal Services Advisory Board**

Revise as recommended by task force

### **Sec. 4-35 Register upon Impoundment**

Remove wording regarding licensing

### **Sec. 4-41 Redemption by owner**

Remove as outdated

### **Sec. 4-63 Vaccinations**

Revise to permit new multiple year inoculations. Revise as recommended by the task force.  
Revise dog kennel licensing

### **Sec. 4-96 Permanent location required**

Revise to make it illegal to offer animals as prizes as recommended by the task force.

### **Sec. 4-131 Damaging shrubbery**

Remove and include as part of nuisance ordinance

### **Sec. 4-116 – Running at large**

Revise as provided above under control

### **Sec. 4-117 Barking and Howling**

Redraft as animal nuisances as provided above

### **Sec. 4-118 Condition of pen and premises**

Include as part of minimum standards of care. Revise to reflect the needs of the animals and not the offensiveness of odors to neighbors



## **Modifications to Existing Ordinances (continued)**

### **Sec. 4-119 Kennels**

Revise as recommended by the task force to simplify permitted number of cats and dogs

### **Sec. 4-120 Tethering**

Repeal and replace the ordinance approved by the board to assure safe and securing fencing and permit both the use of trolley systems and tethering of dogs suitable to breed type, both small and strong. Both the Fort Smith Police Animal Control Division and the Sebastian County Humane Society recognize tethering as a suitable means of control. The approved ordinance is both confusing and lengthy in its definitions. While abolishing the use of tethering, it uses the word tether to define trolley systems. Tethering is often humane. The approved ordinance does not take shift workers, home or apartment renters, “fence jumpers/diggers” or fencing inadequacy into consideration.

### **Sec. 4-11. Annual Registration for Dogs and Cats; Mandatory Spay/Neuter for Dogs and Cats; Hobbyist Permit for Dogs and Cats (introduced 3/15/2011)**

Permanently table ordinance establishing mandatory spay/neuter of all dogs and cats and their licensing.


Mandated spay/neuter is difficult to enforce, burdensome to the low income sector and would result in the unintended consequences of inadequate health care and shelter surrenders. The task force does recommend giving cat owners the choice of allowing altered cats to remain at large, but unaltered cats must be confined to the home of the owner or harbinger.


Licensing is considered both administratively expensive and an ineffective means of encouraging spay/neuter. Microchipping is considered a more viable alternative.




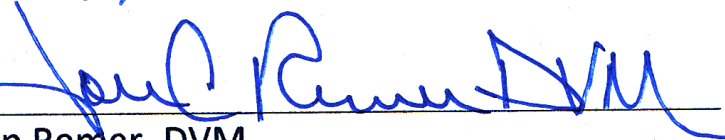
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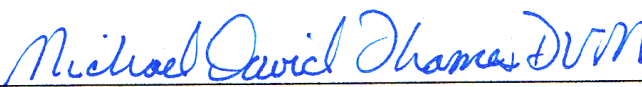
  
Daniel Jones, DDS, Chairman

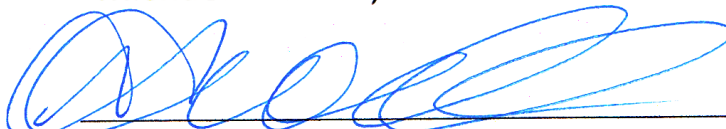
  
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